

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN JIM SHOCKLEY**, on March 19, 2001 at 8:00 A.M., in Room 137 Capitol.

ROLL CALL

Members Present:

Rep. Jim Shockley, Chairman (R)
Rep. Paul Clark, Vice Chairman (D)
Rep. Jeff Laszloffy, Vice Chairman (R)
Rep. Darrel Adams (R)
Rep. Gilda Clancy (R)
Rep. Aubyn A. Curtiss (R)
Rep. Bill Eggers (D)
Rep. Steven Gallus (D)
Rep. Gail Gutsche (D)
Rep. Christopher Harris (D)
Rep. Linda Holden (R)
Rep. Joan Hurdle (D)
Rep. Jeff Mangan (D)
Rep. Brad Newman (D)
Rep. Mark Noennig (R)
Rep. Ken Peterson (R)
Rep. Diane Rice (R)
Rep. Bill Thomas (R)
Rep. Merlin Wolery (R)
Rep. Cindy Younkin (R)

Members Excused: None.

Members Absent: None.

Staff Present: John MacMaster, Legislative Branch
Mary Lou Schmitz, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: **SB 158 - 3-6-01**
SB 384 - 3-8-01

Executive Action: None

HEARING ON SB 158

Sponsor: Sen. Lorents Grosfield, SD 13, Big Timber said this Bill will create an intermediate appellate court. This Court of Appeals will consist of five judges. They will select their own Chief Judge on a rotating basis, if they choose to do it that way. They would listen to cases and they may travel around the state at times and bring the system closer to the people. The pay scale would be 95% of Supreme Court Judges. District Court Judges are 90% of Supreme Court Judges.

The Chief Judge of the Court of Appeals is the one who will recommend removal to the Supreme Court and then the Supreme Court has the discretion to decide whether or not to accept the case. The actual decision is made by the Supreme Court.

Each Section of the Bill was explained by the Sponsor.

The Fiscal Note is \$1.1 million and **Senator Grosfield** explained to the committee that is not the long term cost of this Bill. It takes awhile to get set-up. There is a judicial appointment process to go through, there are time lines as it takes time to find space and set up offices. One time start-up costs are projected at about \$425 thousand. The other costs are the ongoing costs, but will only be for six months out of this biennium. Once everything has been set up and going, the cost in the next biennium will be \$2.8 million.

The quality of Justice is what Montana citizens have the right to expect.

{Tape : 1; Side : A; Approx. Time Counter : 0 - 12.5}

Proponents: Karla Gray, Chief Justice, Montana Supreme Court
EXHIBIT (juh62a01)

{Tape : 1; Side : A; Approx. Time Counter : 12.5 - 24.3}

Bill Leaphart, Justice, Montana Supreme Court said the primary drive behind the need for an intermediate appellate court has to do with the case load numbers which have been building up over the years to the point now where there is a significant backlog. Backlog means delay and delay is not good for anybody involved in the judicial system.

Under this proposed legislation, all appeals, with the exception of three types of cases: capital punishment, life imprisonment

and cases involving the constitutionality of the state statute, would be initially filed in the intermediate appellate court.

{Tape : 1; Side : A; Approx. Time Counter : 24.3 - 30.6}

Russ Ritter, Washington Corporations, **EXHIBIT**(juh62a02)

Chad Wright, Montana Appellate Defender Office

Eric Feaver, MEA-MFT, Helena (Chairman Shockley delcared this witness an Opponent)

Opponents: Randy Bishop, Attorney, Billings **EXHIBIT**(juh62a03)

John Connor, Representing the Attorney General's Office said they supported the Bill in the Senate because they believe, for many of the reasons articulated by Mr. Wright, that the Court does effect people's lives and the Attorney General's office does a tremendous amount of work in the Supreme Court and they see cases that effect individuals from a different perspective than that brought by Mr. Bishop. He thinks that delay, from the standpoint of financial cost is a different concept entirely than delay that effects individual liberty. As a prosecutor, he believes in individual liberty as a respected concept just as defense lawyers do.

{Tape : 1; Side : B; Approx. Time Counter : 0.0 - 30.1}

{Tape : 2; Side : A; Approx. Time Counter : 0.1 - 5}

Sonja Indreland, Wilsall, **EXHIBIT**(juh62a04)

{Tape : 2; Side : A; Approx. Time Counter : 5 - 30.1}

{Tape : 2; Side : B; Approx. Time Counter : 0.1 - 12.4}

Questions from Committee Members and Responses: Rep. Rice to Chief Justice Gray to respond to Opponent Witnesses and her explanation.

Rep. Peterson to Chief Justice Gray.

{Tape : 2; Side : B; Approx. Time Counter : 12.4 - 29.9}

Reps. Laszloffy, Adams, Mangan, Clancy, Newman, Younkin, Gutsche, Hurdle, Curtiss, Clark, to Chief Justice Gray, Sen. Grosfield and John Connor for clarification and further explanation.

{Tape : 3; Side : A; Approx. Time Counter : 0.1 - 29.9}

{Tape : 3; Side : B; Approx. Time Counter : 0.1 - 29.7}

Rep. Clark said the merits of the Bill are based on work loads and dispensation of justice. The passage of this Bill is dependent upon the Senate amendment being in the Bill to have the Justices elected. Why can't the Bill pass without that amendment in it? **Justice Gray** said, in her opinion, it was based, to a large extent, on the numbers. The Bill, with the amendment, was not opposed by any Democrats in the Senate. Obviously there are more concerns in this House about that amendment than there were in the Senate. It is her opinion that the Bill will not pass without the amendment, as a matter of political reality.

{Tape : 4; Side : A; Approx. Time Counter : 0.1 - 3.2}

Rep. Clark asked **Sen. Grosfield** if for some obscure reason this Bill gets re-amended to its original form, would you continue to support the Bill? **Sen. Grosfield** said he is carrying the Bill on behalf of the Montana Supreme Court so he would say yes.

{Tape : 4; Side : A; Approx. Time Counter : 3.2 - 5.4}

Reps. Harris, Noennig, Shockley asked **Mr. Connor** and **Justice Gray** for clarification

{Tape : 4; Side : A; Approx. Time Counter : 5.4 - 29.9}

{Tape : 4; Side : B; Approx. Time Counter : 0.1 - 1.9}

Closing by Sponsor: **Sen. Grosfield** closed the Hearing on SB 158.
EXHIBIT (juh62a05)

{Tape : 4; Side : B; Approx. Time Counter : 1.9 - 12.7}

HEARING ON SB 384

Sponsor: **Sen. Don Ryan, SD 22, Great Falls** said this Bill deals with a problem that effects hunters. Currently the law allows for bird hunters to get a \$25 fine if they walk on property without permission. This Bill would make the punishment fit the crime which means if you go on property that is unposted or unmarked and you don't know it was marked property, you would be subject to \$100 fine.

Proponents: **Jeff Barber, Montana Wildlife Federation, Helena**

Proponents: Stan Frasier, Helena Hunters and Anglers Association

Opponents: None

Questions from Committee Members and Responses: Reps. Harris, Clancy, Newman, Noennig, Curtiss, Thomas to Mr. Barber and Sen. Ryan for clarification.

{Tape : 4; Side : B; Approx. Time Counter : 12.3 - 30.2}

Closing by Sponsor: Sen. Ryan closed the Hearing on SB 384.

{Tape : 5; Side : A; Approx. Time Counter : 1 - 6.4}

ADJOURNMENT

Adjournment: 12:25 P.M.

REP. JIM SHOCKLEY, Chairman

MARY LOU SCHMITZ, Secretary

JS/MS

EXHIBIT (juh62aad)